

Board of Zoning Appeals (BZA)

Description

A Board of Zoning Appeals (BZA) has the similar actions as those of a court because of the way it has hearings and makes orders and judgments on certain activities. According to Indiana State Code IC-36-7-4-900 series, the BZA is composed of one division as either an advisory BZA or an area BZA depending on what type of Plan Commission the community has established. The BZA has jurisdiction over the geographical area that the governing zoning ordinance covers.

All types of Board of Zoning Appeals have five members, none of which should hold office of any other kind within the municipal government system except where noted in IC-36-7-4-902. Each member must also be a resident of the BZA jurisdiction (not just a property owner). Board members serve terms of four years and are eligible for reappointment. Members may be removed from the board by the appointing authority for any reason and with no appeal. In this case, new members may be appointed to fulfill the rest of the removed member's term.

The duties of the Board of Zoning Appeals are to:

1. Grant zoning variances
 - a. Development standards variances
 - b. Variance of use
2. Grant special exceptions or conditional uses
3. Hear appeals from administrative decisions.

The Board of Zoning Appeals is established through the zoning ordinance or an amendment of the zoning ordinance to enforce and make rulings on issues of zoning within the community. Examples of ordinance articles that give these powers can be seen in the example ordinance section below. The powers given to the BZA are recommended by the Plan Commission to the governing legislative body (city or town council, county commissioners) who then adopts the recommendations as an ordinance.

Board of Zoning Appeals should follow common rules of procedure. A full explanation of rules and procedures can be found in the Rules and Procedures Tool; however, key points and highlights that relate to the BZA are below:

1. All actions of the BZA should be held as public hearings with sufficient notice of 10 days prior to the meeting.
2. When the BZA makes a decision, they must also provide a "because" statement that explains why the decision was made to allow or not allow a variance or special use.
3. Board members who may have some special interest in a case may not take part in the hearing or the final decision of the BZA. A temporary member with no ties to the member in question or the case may participate in the proceedings and assist in making decisions.
4. BZA decisions are subject to review by certiorari, or a higher court. An appeal must be filed within 30 days of BZA decision for higher court hearing. Both the BZA and petitioner may have chance to defend their side.
5. Members may not discuss meeting topics outside of hearings because the BZA is run like actual court proceedings.

It is important to note that the BZA is NOT the same as a plan commission. A plan commission makes recommendations about development and zoning policies whereas the BZA makes actual final decisions about the developments.

Relevant Statutes

- IC-36-7-4-900 series
- IC-36-7-4-1000 series

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Capacity Recommendations

A Plan Commission must already be established for a BZA to be formed.

Guidelines / Considerations for Implementation

- BZA adoption should be included as part of a Zoning Ordinance

Example Ordinances

- **Town of Porter, Indiana Board of Zoning Appeals Rules and Procedures** – [\[http://www.townofporter.com/pdf/zoning/bza_rules.pdf\]](http://www.townofporter.com/pdf/zoning/bza_rules.pdf)
- **Madison County, Indiana Board of Zoning Appeals Rules and Procedure** – [\[http://www.mcplanning.net/pdf/ordinance/bza_rules_and_procedures.pdf\]](http://www.mcplanning.net/pdf/ordinance/bza_rules_and_procedures.pdf)
- **City of Kokomo, Indiana Board of Zoning Appeals Website** – This website shows examples of rules and procedures, meeting agendas, meeting minutes, variance applications, special exception applications, rezoning applications, etc. [\[http://www.cityofkokomo.org/departments/board.asp?fDD=14-55\]](http://www.cityofkokomo.org/departments/board.asp?fDD=14-55)

Example Studies

No example studies are available for this tool.

Helpful References and Links

- **Indiana Citizen Planner's Guide – Part 2: Board of Zoning Appeals Basics:** This important resource published by the Indiana Planning Association describes the role of the Board of Zoning Appeals. [\[http://www.indianaplanning.org/Citizen/2_BZABasics_2005.pdf\]](http://www.indianaplanning.org/Citizen/2_BZABasics_2005.pdf)

Helpful Contacts

- **Center for Urban Policy and the Environment** – As part of the School of Public and Environmental Affairs at IUPUI, this organization can assist in a variety of planning related matters.

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- **Purdue Cooperative Extension Service: Community Development Division**

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- **Association of Indiana Counties** is a nonprofit organization that provides technical assistance and training for county officials and employees.

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Other Possible Funding Sources

No other funding sources have been identified for this tool.

Program Objectives and Issues Addressed

- General planning
- Planning capacity
- Growth management
- Zoning variances
- Code/ policy enforcement
- Land use changes
- Undesired land uses
- Vision of development and growth

See Also

- Advisory/ Area Plan Commission
- Common Rules of Procedure